

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: John A. Kink, et al.

Serial No.: 09/095,536

Art Unit: 1646

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Examiner: HISSONG, BRUCE D

Entitled: **Prevention and Treatment of Sepsis**

**APPEAL BRIEF REPLACEMENT PAGE
TRANSMITTAL IN RESPONSE TO
NOTICE OF NON-COMPLIANCE**

ATTENTION: Board of Appeals and Interferences

Commissioner for Patents

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I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being deposited with the U.S. Patent and Trademark Office, via EFS.

Dated: August 7, 2008

By: 

Traci E. Light

Sir or Madam:

Applicants hereby submit a replacement page for page 3 of the previously filed Appeal Brief to the Board of Appeals and Interferences, in response to a Notice of Non-compliance mailed July 09, 2008.

Please charge any additional fees, including any fees necessary for extensions of time, or credit overpayment to Deposit Account No. **08-1290**.

Dated: August 7, 2008

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I. REAL PARTY IN INTEREST

The real party in interest is Promega Corporation, Madison, WI, assignee of the technology.

II. RELATED APPEALS AND INTERFERENCES

none

III. STATUS OF CLAIMS

Claims 49-57 are pending, stand rejected and are involved in the appeal. Claims 1-48 are canceled.

IV. STATUS OF AMENDMENTS

All amendments in the case have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention contemplates treatment of mammals having symptoms of a systemic septic reaction (pg 4, lines 2-3). In one embodiment (Claim 49), the present invention contemplates a method of treatment, comprising: a) providing i) a mammal having a plurality of symptoms of sepsis, wherein said symptoms comprise arterial hypotension and at least one selected from the group consisting of metabolic acidosis, fever, decreased systemic vascular resistance, tachypnea, and organ failure (pg 3, lines 9-10), ii) a therapeutic preparation, comprising anti-TNF-alpha, anti-IL-6, and anti-IFN antibodies (pg 16, lines 1-12); and b) administering said preparation to said mammal wherein said symptoms are reduced (pg 5, line 14) (Table 5). In one embodiment (Claim 50), said antibodies are polyclonal (pg 4, lines 17).

The present invention also contemplates, in one embodiment (Claim 51), a therapeutic composition for use with a mammal having a plurality of symptoms of sepsis, wherein said symptoms comprise arterial hypotension and at least one selected from the group consisting of metabolic acidosis, fever, decreased systemic vascular resistance, tachypnea, and organ failure (pg 3, lines 9-10), said therapeutic composition comprising avian (pg 4, lines 13-14) anti-TNF-alpha, anti-IL-6, and anti-IFN antibodies (pg 16, lines 1-12) (Table 5).

The present invention also contemplates, in one embodiment (Claim 52), A method of treatment, comprising: a) providing: i) a mammal having sepsis, ii) a therapeutic preparation,